**LACASSE & ASSOCIATES, LLC***PROFESSIONAL PATENT SERVICES*

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E-Mail: patserv@lacasse-patents.com**RECEIVED
CENTRAL FAX CENTER****APR 18 2005****CONFIDENTIAL
FACSIMILE TRANSMITTAL SHEET****DATE SENT:** April 18, 2005**DELIVER TO:**Name: Attn: Office of PetitionsCompany: USPTOPhone No: 571-272-3231Fax No: 703-872-9306**FROM:** Randy W. Lacasse**RE:** USSN 09/898,379THERE WILL BE A TOTAL OF 23 PAGE(S) INCLUDING THIS COVER SHEET.
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NOTES:

- TRANSMITTAL FORM
- RENEWED PETITION UNDER 37 CFR 1.137(a)
- EMPLOYEE STATEMENTS (2 DOCUMENTS)
- AMENDMENT

PTO/SB/21 (09-04)

Approved for use through 07/31/2006, OMB 0651-0031

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TRANSMITTAL FORM

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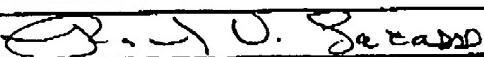
Total Number of Pages in This Submission 22

| | |
|------------------------|---------------|
| Application Number | 09/898,379 |
| Filing Date | July 5, 2001 |
| First Named Inventor | Kovar et al. |
| Art Unit | 2633 |
| Examiner Name | Dzung D. Tran |
| Attorney Docket Number | 10-342 US |

ENCLOSURES (Check all that apply)

| | | |
|---|---|--|
| <input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD. Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <input type="checkbox"/> Statements (2 documents) |
| Remarks | | |

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

| | | | |
|--------------|---|----------|--------|
| Firm Name | Lacasse & Associates, LLC | | |
| Signature |  | | |
| Printed name | Randy W. Lacasse | | |
| Date | 04/18/2005 | Reg. No. | 34,388 |

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature Typed or printed name LaRieka WelchDate 04/18/2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

10-342 US
09/898,379

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Kovar et al.

Serial No.: 09/898,379

Group Art Unit: 2633

Filed: 7/5/2001

Examiner: DZUNG D. TRAN

Title: *Optical Modulator and Method for Polarization Bit Interleaving*STATEMENT

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I have been an employee at Lacasse & Associates, LLC since July 2003. During that time I worked with Elizabeth Hein, the Assistant Manager of Administrative Services. To my knowledge, one of the duties of Ms. Hein was to retrieve and distribute all incoming USPTO correspondence. Upon receipt of USPTO correspondence, Ms. Hein would use our case tracking system, CTS 5.0, to look up our internal case numbers by using the U.S. application number. Then, she would retrieve the file wrapper from our file room and process the correspondence according to the procedures detailed below. During her employment with Lacasse & Associates, LLC, Ms. Hein was in charge of monitoring the applications of several clients.

Our procedure for handling incoming USPTO correspondence is accurate as stated in the Renewed Petition Under 37 CFR 1.137(a) and in the paragraph below.

After opening all incoming mail from the United States Patent and Trademark Office, the proper procedure for docketing incoming USPTO correspondence, specifically office actions, is as follows:
(1) Log into CTS (our case management software); (2) while in CTS, search for our docket number by typing in the U.S. application number in the search form; (3) write our docket number on the envelope or a post-it note and attach it to the corresponding USPTO correspondence; (4) retrieve the file wrapper of the corresponding file from our record room; (5) write

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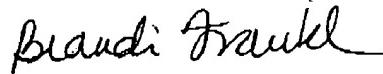
the mailing date of the office action on the front cover of the file wrapper; (6) return to CTS and access the office action screen of the corresponding case; (7) enter the mailing date from the front page of the office action into the "mailing date" field of the office action screen; (8) upon entering the mailing date at the office action screen, the software will prompt the user to enter the mailing date again in order to confirm the accuracy of the entry; (9) after entering the mailing date to confirm accuracy, the software generates two dates -- (a) the "Date Due", which is three months from the mailing date of the office action (two months if a final office action); and (b) the "Last Date to File", which is six months from the mailing date of the office action; (10) the user will be prompted to accept the dates; (11) after accepting the dates, the user then generates a letter to the client, notifying him of an office action; (12) the user then generates an amendment form for the patent agent to complete at a later date; (13) the employee makes two copies of the office action -- the original office action is sent to the client, one copy of the office action is hole-punched and placed in the incoming USPTO correspondence section of the file wrapper, and the other copy of the office action is placed in a working folder for the patent agent; (14) the employee then creates several labels for the patent agent's working folder indicating the following -- (a) our docket number for the case, (b) the two-month due date for the response to the office action, and (c) the three-month due date for the response to the office action; (15) the labels are placed on the front of the working folder and the copy of the office action is stamped with "COPY" on the front and placed in the working folder; (16) the employee gives the file wrapper to another employee who enters the following information into the shared "Patent Dept. Office Actions" task list in Microsoft Outlook -- the docket number, patent application title, client contact information, type of response needed, assigned patent agent initials, an indication of a "final" office action (if the office action is final), the due date, and the month of response for that due date; (17) the working folder and file wrapper are given to the appropriate patent secretary; (18) the patent secretary enters the due date on their personal desk or wall calendar; (19) the patent secretary enters the due date on the desk or wall calendar of the Assistant Manager of Administrative Services; and (20) finally, the working folder and file wrapper are given to the appropriate patent agent who will work on the response to the office action.

At the time the docketing error occurred (approximately June 7, 2004), there were no physical signs such as overdue reminders, an abundance of correspondence in her inbox or desk,

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09/898,379

or unusual work habits that may have indicated that there was a problem with her performing her duties.

Respectfully submitted,



Brandi L. Franklin
Patent Secretary

1725 Duke Street
Suite 650
Alexandria, Virginia 22314
(703) 838-7683
April 18, 2005

10-342 OS
09/898,379

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Kovar et al.

Serial No.: 09/898,379

Group Art Unit: 2633

Filed: 7/5/2001

Examiner: DZUNG D. TRAN

Title: *Optical Modulator and Method for Polarization Bit Interleaving***STATEMENT**

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I have been an employee at Lacasse & Associates, LLC since September 27, 1999. I first began working as a Patent Secretary, and later I was promoted to the Manager of Administrative Services. During my two years that I performed the duties of Manager of Administrative Services, I interviewed and hired Ms. Elizabeth Hein as a Patent Secretary, and she began her employment with our firm on April 15, 2002. I personally trained her on the patent prosecution process and the importance of docketing and inputting correct dates into our case tracking software, CTS Version 5, and I personally supervised and reviewed her work product for over a year and a half as well as the work products of other administrative staff. As Manager of Administrative Services, one of my duties was to enter data from USPTO correspondence into the CTS case tracking software and review the reminders for each administrative staff person as well as all of the patent agents every two weeks. The patent secretaries were also required to write all due dates on my wall calendar, as a way to keep me informed of all USPTO responses that were due to be completed. If there was anything that was nearly due, I would speak to the administrative staff person to inquire about the item due. For the weekly Patent Department meetings, I would provide each administrative staff person and patent agent with a copy of the

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monthly docket from CTS as well as a copy of the Patent Department Office Action task list that we maintained as a public folder in Outlook. We would compare the two lists in our meetings to make sure that all necessary responses were known.

After my two years as the Manager of Administrative Services, I was promoted to the position of Manager of Patent Services. Upon my promotion, I was asked by the firm's Director, Randy W. Lacasse, about a replacement for the Manager of Patent Services position. I recommended that Mr. Lacasse give Ms. Hein the opportunity to manage the Administrative Services Department due to her strong and unblemished work performance, knowledge of the patent process, as well as her enthusiasm and positive attitude. Ms. Hein was promoted to the position of Assistant Manager of Administrative Services in October 2003. During her time as Assistant Manager of Administrative Services, Ms. Hein was responsible for the same docketing duties that I was responsible for previously. I trained Ms. Hein on the responsibilities of the position and continued to periodically review her progress in the position as required by the Director. Also, since we began fully utilizing the CTS software in early 2000, I have been the Database Administrator for the case tracking software. Furthermore, after reviewing the CTS case history for this application, I discovered that there was never any entry of the office action mailed on June 7, 2004. The last action completed in the case, before we received the Notice of Abandonment for not responding to the office action mailed on June 7, 2004, was the update of the patent application publication information on May 30, 2002 (see example A, attached). This suggests that the office action was either never received or it was never entered into the CTS software, thus creating the lack of reminders to respond to the office action.

During my employment as a Patent Secretary and later as Manager of Administrative Services, I created, implemented, and trained Ms. Hein on the following procedure for handling

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incoming USPTO correspondence as stated in the Renewed Petition Under 37 CFR 1.137(a) and in the paragraph below.

After opening all incoming mail from the United States Patent and Trademark Office, the proper procedure for docketing incoming USPTO correspondence, specifically office actions, is as follows:

(1) Log into CTS (our case management software); (2) while in CTS, search for our docket number by typing in the U.S. application number in the search form; (3) write our docket number on the envelope or a post-it note and attach it to the corresponding USPTO correspondence; (4) retrieve the file wrapper of the corresponding file from our record room; (5) write the mailing date of the office action on the front cover of the file wrapper; (6) return to CTS and access the office action screen of the corresponding case; (7) enter the mailing date from the front page of the office action into the "mailing date" field of the office action screen; (8) upon entering the mailing date at the office action screen, the software will prompt the user to enter the mailing date again in order to confirm the accuracy of the entry; (9) after entering the mailing date to confirm accuracy, the software generates two dates -- (a) the "Date Due", which is three months from the mailing date of the office action (two months if a final office action); and (b) the "Last Date to File", which is six months from the mailing date of the office action; (10) the user will be prompted to accept the dates; (11) after accepting the dates, the user then generates a letter to the client, notifying him of an office action; (12) the user then generates an amendment form for the patent agent to complete at a later date; (13) the employee makes two copies of the office action -- the original office action is sent to the client, one copy of the office action is hole-punched and placed in the incoming USPTO correspondence section of the file wrapper, and the other copy of the office action is placed in a working folder for the patent agent; (14) the employee then creates several labels for the patent agent's working folder indicating the following -- (a) our docket number for the case, (b) the two-month due date for the response to the office action, and (c) the three-month due date for the response to the office action; (15) the labels are placed on the front of the working folder and the copy of the office action is stamped with "COPY" on the front and placed in the working folder; (16) the employee gives the file wrapper to another employee who enters the following information into the shared "Patent Dept. Office Actions" task list in Microsoft Outlook -- the docket number, patent application title, client contact information, type of response needed, assigned patent agent initials, an indication of a "final" office action (if the office action is final), the due date, and the month of response for that due date; (17) the working folder and file wrapper are given to the

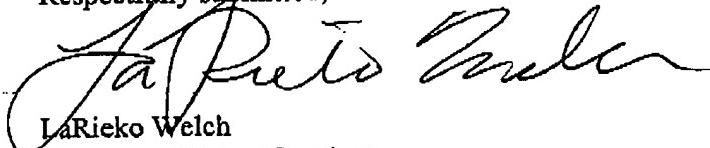
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09/898,379

appropriate patent secretary; (18) the patent secretary enters the due date on their personal desk or wall calendar; (19) the patent secretary enters the due date on the desk or wall calendar of the Assistant Manager of Administrative Services; and (20) finally, the working folder and file wrapper are given to the appropriate patent agent who will work on the response to the office action.

It is my opinion that Ms. Hein was adequately trained to perform the above-described duties. She performed these duties on a regular basis for almost three years without fail, and she was an exemplary, enthusiastic, and attentive employee. Therefore, there was no reason for me or anyone else to doubt her competence in following the above-referenced procedures for docketing incoming USPTO correspondence. Furthermore, at the time the docketing error occurred (approximately June 7, 2004), there were no physical signs such as overdue reminders, an abundance of correspondence in her inbox or desk, or unusual work habits that may have indicated that there was a problem with her performing her duties.

Respectfully submitted,



LaRieko Welch
Manager of Patent Services

1725 Duke Street
Suite 650
Alexandria, Virginia 22314
(703) 838-7683
April 18, 2005

Case Tracking System
Case History Report

Date: April 18, 2005

U.S. Patent Case

Case Number: 3012935

Status: Pending

Priority Case Number: 1002719

Client Case #: 10-342 US

Client: JDS Uniphase Inc.

Application Serial Number: 09/898,379 3611

Filing Date: 7/5/2001

Application Type: Utility

Title: Optical Modulator and Method for Polarization Bit Interleaving

Administrator Id: BLF

Sr. Attorney Id: RWL

Primary Attorney Id: (none)

Item

| | Due | Completed |
|---|------------|------------------|
| File New Application | 7/5/2001 | 7/5/2001 |
| Receive Filing Receipt | 10/5/2001 | 8/28/2001 |
| Assignment Recording | 12/20/2001 | 9/20/2001 |
| Application Publication | 5/30/2002 | 5/30/2002 |
| Waiting for next PTO communication. - USA | 3/15/2004 | 2/2/2005 |
| WAITING FOR NOTICE OF ABANDONMENT | 2/11/2005 | |

Assignment Recording

Application Publication

Waiting for next PTO communication. - USA
WAITING FOR NOTICE OF ABANDONMENT

EXAMPLE A

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